

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

AMBROSE S. FERNANDEZ, JR.,)	CIVIL NO. 15-00487 LEK-KSC
)	
Plaintiff,)	FINDINGS AND
)	RECOMMENDATION TO DENY
vs.)	PLAINTIFF'S MOTION FOR
)	ENTRY OF DEFAULT JUDGMENT
DEPARTMENT OF PUBLIC SAFETY)	
- SHERIFF DIVISION; MAURICE)	
RICE; HENRY KIM; MATTHEW)	
DVONCH; DEPARTMENT OF THE)	
ATTORNEY GENERAL, STATE OF)	
HAWAII; JOHN DOES 1-10;)	
JANE DOES 1-10; DOE)	
GOVERNMENTAL ENTITIES 1-10;)	
DOE CORPORATIONS 1-10; DOE)	
NON-PROFIT CORPORATIONS 1-)	
10,)	
)	
Defendants.)	
_____)	

FINDINGS AND RECOMMENDATION TO DENY
PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT

Before the Court is Plaintiff Ambrose Fernandez, Jr.'s ("Plaintiff") Motion for Entry of Default Judgment ("Motion"), filed June 15, 2016. The Court finds this matter suitable for disposition without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice for the U.S. District Court for the District of Hawaii ("Local Rules"). After carefully

considering the Motion and the applicable law, the Court hereby RECOMMENDS that the district court DENY Plaintiff's Motion.

Plaintiff seeks default judgment against Defendants.¹ However, Plaintiff's request for default judgment is premature, insofar as an entry of default must precede a motion for default judgment. See Fed. R. Civ. P. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."). Plaintiff has not requested an entry of default, and default has not entered, against Defendants. Accordingly, the Court recommends that this Motion be DENIED.

¹ Plaintiff moved for relief "by and through attorney Mariano Vicente Hernando". If Plaintiff is in fact represented by an attorney, that attorney should make a proper appearance. Once Plaintiff is represented by an attorney, he "may not thereafter appear or act in his . . . own behalf in the action, or take any step therein, unless an order of substitution shall first have been made by the court." Local Rule 83.6(a).

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, January 28, 2016.




Kevin S.C. Chang
United States Magistrate Judge

CV 15-00487 LEK-KSC; FERNANDEZ V. DEPARTMENT OF PUBLIC SAFETY, ET AL.; FINDINGS AND RECOMMENDATION TO DENY PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT